

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

M WAIKIKI LLC,

Plaintiff,

- against -

MARRIOTT HOTEL SERVICES, INC., I.S.  
INTERNATIONAL, LLC, AND IAN SCHRAGER,

Defendants.

No. 11 Civ. 06488 (BSJ)

(Removed from the Supreme Court  
for the State of New York, County of  
New York Index No. 651457/2011)

MARRIOTT HOTEL SERVICES, INC.,

Counterclaim Plaintiff,

- against -

M WAIKIKI LLC,

Counterclaim Defendant.

**AFFIDAVIT OF ROBERT A. WEINER, ESQ.  
IN SUPPORT OF DEFENDANTS  
I.S. INTERNATIONAL, LLC'S AND IAN SCHRAGER'S  
MOTION FOR ABSTENTION, REMAND, AND COSTS**

State of New York     )  
                                  ) ss.:  
County of New York    )

Robert A. Weiner, being duly sworn, deposes and says:

1. I am a partner with McDermott Will & Emery LLP, counsel for defendants I.S. International, LLC and Ian Schrager (collectively, the "Schrager Defendants") in the above-captioned action in support of their motion for abstention, remand and costs.

2. Attached hereto as Exhibit A is a true and correct copy of the summons and complaint filed by Plaintiff M Waikiki LLC, dated May 26, 2011, as filed in the action captioned *M Waikiki LLC v. Marriott Hotel Services, Inc., et al.*, Index No. 651457/2011 (N.Y. Sup. Ct., N.Y. County) (Bransten, J.) (the “New York State Court Action”).

3. Attached hereto as Exhibit B is a true and correct copy of the Schrager Defendants’ memorandum of law in support of its motion to dismiss, dated August 1, 2011, as filed in the New York State Court Action.

4. Attached hereto as Exhibit C is a true and correct copy of Marriott Hotel Services, Inc.’s (“Marriott”) memorandum of law in support of its motion to dismiss, dated August 1, 2011, as filed in the New York State Court Action.

5. Attached hereto as Exhibit D is a true and correct copy of an article from the *New York Times*, dated July 7, 2011, as printed from its website on October 17, 2011.

6. Attached hereto as Exhibit E is a true and correct copy of an article from the June 2011 issue of *Travel & Leisure*, as printed from its website on October 17, 2011.

7. Attached hereto as Exhibit F is a true and correct copy of the Counterclaim Complaint, dated August 30, 2011, as filed by Marriott in the New York State Court Action.

8. Attached hereto as Exhibit G is a true and correct copy of an order, dated August 31, 2011, of Justice Eileen Bransten of the New York Supreme Court, New York County Commercial Division.

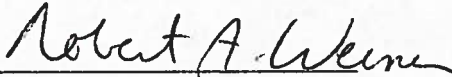
9. Attached hereto as Exhibit H is a true and correct copy of Plaintiff’s Suggestion of Bankruptcy and its attachments, dated August 31, 2011, as filed in the New York State Court Action.

10. Attached hereto as Exhibit I is a true and correct copy of the Declaration of Damian McKinney, dated September 1, 2011 as filed in the United States Bankruptcy Court for the District of Hawaii.

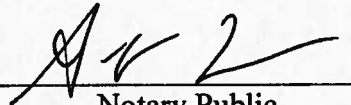
11. Attached hereto as Exhibit J is a true and correct copy of Plaintiff's notice of removal, dated September 16, 2011, without its exhibits.

12. Attached hereto as Exhibit K is a true and correct copy of Plaintiff's List of the 20 Largest Unsecured Creditors, dated September 6, 2011, as filed in the Bankruptcy Court for the District of Hawaii.

13. Attached hereto as Exhibit L is a true and correct copy of the Design and Technical Services and Pre-Opening Agreement, dated July 9, 2008.

  
Robert A. Weiner

Sworn to before me this  
17th day of October 2011

  
Notary Public

**AUDREY LU**  
**Notary Public State of New York**  
**No. 02LU6213907**  
**Qualified in New York County**  
**Commission Expires Nov. 23, 2013**